IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

FRIDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND SEVEN.

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

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WRIT PETITION No. 24251 of 2007

Between:

Munnangi Raju & Ors. **… Petitioners**

Versus

The State of Andhra Pradesh
Represented by its Comissioner,
Civil Supplies Department,
Somajiguda, Hyderabad & Ors. **…**
Respondents

Counsel for the Petitioner: **Sri Palle Srinivas Reddy**

Counsel for the Respondents: **Govt. Pleader for Civil Supplies**

THE HON'BLE SRI JUSTICE P.S. NARAYANA

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WRIT PETITION No. 24251 of 2007

O R D E R :

Heard both the counsel. This Court issued Rule Nisi and made the following order on 22-11-2006 in WPMP.No.30971 of 2006:

> " There shall be interim direction to the second and third respondents to consider the implementation of the circular instructions issued by the first respondent in Circular CCS. Ref.No. PDSI (3)/18/2003 dated 15-11-2003 as reiterated in Circular CCS Ref.No.PDS-II (3)/12138/05 dated 22-10-2005 by attaching all the new cards within the jurisdiction of the petitioners shops for the purpose of distribution of essential commodities including kerosene, if the same is necessitated as per policy of the Government ".

2. It is brought to the notice of this Court that in similar situation a batch of WP.Nos.17523 of 2006 and batch, had been disposed of by this Court on 08-10-2007.

3. The writ petition is filed for a writ of mandamus, declaring the action of the respondents 2 and 3 herein in not implementing the orders of the first respondent issued in Circular CCS. Ref. No. PDS I (3)/18/2003, dated 15-11-2003 as reiterated in Circular CCS. Ref.No. PDS II (3)/12138/05, dated 22-10-2005, as being arbitrary, illegal and unreasonable and issue a consequential direction directing the respondents to implement the said orders by attaching the new cards to the petitioners shops and also by

releasing all the essential commodities, including the kerosene and to pass such other suitable orders.

4. Several facts had been narrated in the affidavit filed in support of the writ petition.

5. In the counter-affidavit filed by the respondents, it is stated in para no.6 that as per the directions of the Government and Commissioner of Civil Supplies, no new Hawker or Retailer for PDS kerosene was appointed since 1994. When a hawker died or removed on any other cause, the allotment of Kerosene Oil for the said hawker was allotted to the concerned regular Fair Price Shop Dealer only. The allotment of essential commodities for the old and new cards issued to eligible families are allotted to fair price shop dealers for distribution of essential commodities to the prescribed area allotted as Municipal ward wise. The allotment of essential commodities to fair price shops are under economical viability only. The allotment of kerosene oil to these cards was allotted to the concerned hawkers as the total allotment in the shop is below 2800 litres and is within the directions of the Commissioner of Civil Supplies in PDS/11(3)/6493/04 dated 24-3-2006. It is submitted that there cannot be any grievance to the petitioners since the allotment of kerosene is being done to

hawkers as per guidelines only.

6. The batch of writ petitions aforesaid had been disposed of, observing as hereunder:

> "*Several facts had been narrated in the respective affidavits filed in support of the Writ Petitions. No doubt, the dates when the Kerosene Hawkers began functioning as Hawkers and the dates from which the Fair Price Shop Dealers have been operating as Fair Price Shop Dealers, differ. However, strong reliance had been placed on the decision of Division Bench of this Court in* ***MANDA VISWESWARA RAO AND OTHERS v. D.VENKATESWARA RAO AND OTHERS***[1]***.*** *It is also not in serious controversy that a policy decision had been taken by the Government to bring in even the distribution of kerosene under the roof of the Fair Price Shop Dealerships. However, further decision had been taken that as far as eligible Kerosene Hawkers are concerned, in a phased manner they are to be absorbed or to be accommodated as Fair Price Shop Dealers depending upon the vacancies. It is stated that preference may have to be given to such Kerosene Hawkers subject to the eligibility criteria. The relevant Government Orders and the Circulars also had been referred to. In the light of the facts and circumstances, this Court is of the considered opinion that especially in the light of the decision of the Division Bench* ***Manda Venkateshwara Rao's case (referred supra)*** *it may not be just and proper to disturb the existing quota of kerosene and the cards attached to the Kerosene Hawkers. It may be that in due course, depending upon the Circulars governing the field and also in the light of the policy such Hawkers may be absorbed as the regular Fair Price Shop Dealers. The main grievance of such Fair Price*

Shop Dealers who had been appointed is that despite the policy of the Government to bring in even the Kerosene distribution under one roof i.e., under the roof of the Fair Price Shop Dealership, even in case of the fresh cards, no such Kerosene quota is being allotted to the fresh Fair Price Shop Dealers. This Court is not inclined to express any opinion relating to factual controversies, which had been narrated in detail in the affidavits filed in support of the respective Writ Petitions. However, it is made clear that status quo existing as on today relating to the Kerosene quota and the cards which had been already allotted to the Kerosene Hawkers and also in relation to the present Fair Price Shop Dealers to be maintained till appropriate decision is taken by the concerned District Collectors of the Districts concerned. The writ petitioners are given liberty to make appropriate representations within a period of four weeks from the date of receipt of this order and let the concerned District Collectors take appropriate decision in this regard taking into consideration all the facts and circumstances and also the decision of the Division Bench referred to supra. The concerned District Collectors to take appropriate decision in this regard within a period of four weeks thereafter. As already specified above, till then status quo existing as on today relating to the Kerosene quota and the Cards in relation thereto to be maintained. Accordingly, the Writ Petitions are disposed of. No order as to costs".

7. The writ petition is disposed of. No costs.

JUSTICE P . S .
NARAYANA .

23/11/2007.

IsL.

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[1]) 2002 (2) ALD-659 (DB)